

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Andrew Harland Salus,

Civ. No. 16-791 (JRT/BRT)

Petitioner,

v.

**REPORT AND  
RECOMMENDATION**

Warden Lockett,

Respondent.

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BECKY R. THORSON, United States Magistrate Judge.

Andrew Harland Salus, a federal prisoner currently confined at USP Coleman II in Florida, has filed a *pro se* petition for a writ of habeas corpus under 28 U.S.C. § 2241, claiming that the Federal Bureau of Prisons has unlawfully calculated his sentence by failing to award him credit for time spent in both state custody and official detention by the U.S. Marshal Service. (Doc. No. 1, Pet. 2 & Attach. 1 at 1–6.) Although Salus’ sentence was imposed in the District of Minnesota, a § 2241 petition challenging the execution of a sentence, including the denial of credits against a sentence, must be filed in the district where the petitioner is incarcerated. *See, e.g., United States v. Chacon-Vega*, 262 F. App’x 730, 731 (8th Cir. 2008); *United States v. Sithithongtham*, 11 F. App’x 657, 658 (8th Cir. 2001); *United States v. Leath*, 711 F.2d 119, 120 (8th Cir. 1983). Because Salus is currently incarcerated in the Middle District of Florida, this Court has no jurisdiction to consider his § 2241 challenge to the calculation of his sentence. *See Leath*, 711 F.2d at 120–21. Rather than simply dismissing his § 2241

petition for lack of jurisdiction, however, this Court recommends that this case be transferred to the United States District Court for the Middle District of Florida, where it should have been filed in the first place. *See* 28 U.S.C. § 2241(b) (providing that a § 2241 petition may be transferred “to the district court having jurisdiction to entertain it”).

Based on the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED** that this case be **TRANSFERRED** to the United States District Court for the Middle District of Florida.

Date: April 29, 2016

*s/ Becky R. Thorson*

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BECKY R. THORSON

United States Magistrate Judge

### **NOTICE**

This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), a party may file and serve specific written objections to this Report and Recommendation by **May 13, 2016**. A party may respond to those objections within **fourteen days** after service thereof. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).